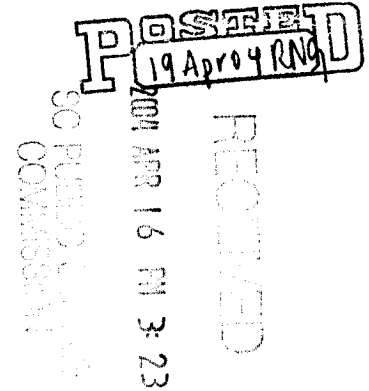


**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2004-112-S**



IN RE:      Application of PINEY GROVE UTILITIES, INC.    )  
             Requesting approval of a pending contract with the    )  
             the CITY OF CAYCE for bulk service collection        )  
             From the Lloydwood sewage collection facility        )  
             Located in Lexington County, South Carolina.        )  
             \_\_\_\_\_ )

Pursuant to S.C. Code Ann. §58-5-210 (1976) and 26 S.C. Code Ann. Regs. 103-503 and 103-541 (1976 & Supp. 2002) Piney Grove Utilities, Inc. ("Piney Grove") does hereby request the South Carolina Public Service Commission ("Commission") to determine whether a pending proposal for a contract with the City of Cayce for bulk service collection from the Lloydwood sewage collection facility is in the public interest and, if in the public interest to authorize Piney Grove to execute upon the terms required. The Applicant would show as follows:

1. Piney Grove is a South Carolina corporation which owns, operates and maintains a wastewater treatment facility and sewer system in Lexington County, serving the Lloydwood Subdivision near Cayce, South Carolina. Lloydwood serves approximately 400 customers.
2. Piney Grove is a public utility as defined by S.C. Code Ann. §58-5-10(3), under the jurisdiction of the Commission pursuant to S.C. Code Ann. §58-5-210.
3. As set out above, DHEC has authority over Piney Grove in that it regulates the wastewater discharges from the Lloydwood sewage collection facility.
4. In connection therewith, Piney Grove has been ordered by DHEC to enter into a proposed pending contract with the City of Cayce in Lexington County to connect the Lloydwood

sewage collection facility to the City of Cayce's wastewater treatment facility subject to the approval of the Commission. DHEC Order No. 04-007-W is attached as **Exhibit "A."**

5. In accordance with the proposed contract, the City of Cayce will charge a \$930.00 tap fee for each of the 400 residences in the Lloydwood subdivision for a total tap fee cost of \$372,000.00. In addition, Piney Grove will be responsible for all costs of connecting the Lloydwood facility with the City of Cayce's facility. Based upon information gathered from a waste water system which is similarly situated and which is proceeding under a DHEC order virtually identical to DHEC Order No. 04-007-W referenced above, Piney Grove estimates that the total cost will exceed \$572,000.00. Piney Grove will be compelled to finance the foregoing through a bank or in combination with another private lender or agency. Based upon information gathered from a similarly situated privately owned waste water treatment facility, Piney Grove anticipates obtaining financial terms of twenty (20) years payable at seven (7%) percent interest for long term funded debt. In addition, the City of Cayce's operation and maintenance fee is to be set at \$2.31/1000 gallons per month, plus a monthly base charge determined by meter size. A copy of the correspondence dated April 16, 2004, to the City Manager of the City of Cayce setting out the proposed terms of the pending contract for Piney Grove is attached hereto as **Exhibit "B."**
6. Based on Piney Grove's established sewer charge rater, and the charges by the City of Cayce in the proposed contract, Piney Grove would estimate that the average Lloydwood customer's monthly sewer bill will be increased slightly over 100% on a monthly.
7. The DHEC order further provides that should this Commission deny approval for Piney Grove to enter such a contract, that Piney Grove seek a permit to upgrade the Lloydwood

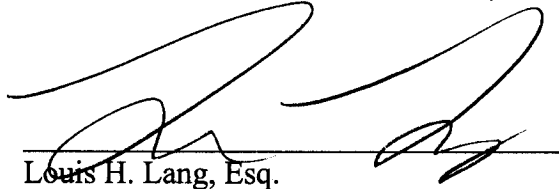
sewage collection facility and that Piney Grove complete construction of the upgrade within two-hundred forty (240) days from the denial by the Commission.

WHEREFORE, Piney Grove respectfully requests that this Commission conduct, after public notice, a formal hearing on this Application to:

- a. Determine whether the proposed contract between Piney Grove and the City of Cayce, with respect to the Lloydwood sewage collection facility, is in the public interest; and, if in the public interest, authorize Piney Grove to enter into such contract and to charge increased fees consistent with the Commission's statutes, regulations and orders appertaining thereto.
- b. Should the Commission determine that the contract is not in the public interest, to issue its order so as to permit Piney Grove to seek permits to upgrade the sewage collection facility affected herein; and
- c. Grant such further and other relief as this Commission deems fit and proper.

Respectfully submitted,

CALLISON TIGHE & ROBINSON, LLC



Louis H. Lang, Esq.  
1812 Lincoln Street, Suite 200  
Post Office Box 1390  
Columbia, SC 29202-1390  
Telephone: (803) 256-2371  
Facsimile: (803) 256-6431

Columbia, South Carolina

April 16, 2004

1529.001\Lloydwood\Application for Approval

THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

---

IN RE: PINEY GROVE UTILITIES, INC.  
LLOYDWOOD SUBDIVISION  
LEXINGTON COUNTY

---

CONSENT ORDER  
04-007-W

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Piney Grove Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving Lloydwood Subdivision located in Lexington County, South Carolina.

The Respondent violated the Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq. (1987 and Supp. 2003) and National Pollutant Discharge Elimination System (NPDES) Permit SC0031402 in that it exceeded the permitted discharge limits for ammonia-nitrogen (NH<sub>3</sub>-N), biochemical oxygen demand (BOD), dissolved oxygen (DO), fecal coliform bacteria and flow, and failed to at all times properly operate and maintain the WWTF in accordance with the NPDES permit. The Respondent also failed to provide for daily visits to the WWTF by an operator of appropriate grade and failed to monitor pH and DO on a daily basis as required by the NPDES permit.

In accordance with approved procedures and based on discussions with the Respondent's agent, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

## **FINDINGS OF FACT**

1. The Department issued NPDES permit SC0031402 authorizing the Respondent to discharge treated wastewater to an unnamed tributary to Dry Creek in accordance with the effluent limitations, monitoring requirements and other conditions set forth therein.
2. The WWTF has been identified through the 201/208 planning process for elimination by connection to a regional sewer system. The NPDES permit prescribes a schedule of compliance, which requires the Respondent to connect to a regional sewer system and cease discharging within ninety (90) days of notification by the Department that a regional sewer system is available.
3. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for  $\text{NH}_3\text{-N}$  during a Department Compliance Sampling Inspection (CSI) performed on April 17, 2000.
4. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for  $\text{NH}_3\text{-N}$ , BOD and fecal coliform bacteria during a Department CSI performed on September 18, 2000.
5. On August 16, 2001, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
6. On August 17, 2001, Department personnel performed an Operation and Maintenance (O&M) Inspection at the Respondent's WWTF. The Respondent's WWTF received an unsatisfactory rating due to the following deficiencies: 1) The polishing pond was completely covered in duckweed; 2) The WWTF was only being sampled five (5) days per week instead of the required seven (7) days per week; 3) A sign with an emergency phone

number was not posted on the gate; 4) The vegetation was not being maintained; and 5) The pond dikes were eroding.

7. On August 27, 2001, the Department received a complaint of extremely strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
8. Department personnel again visited the WWTF on August 29, 2001, and confirmed that an odor was present. A sample collected from the polishing pond and analyzed revealed a dissolved oxygen (DO) level of 0.97 milligrams per liter.
9. In a letter to the Respondent dated August 31, 2001, the Department informed the Respondent of the odor complaints and the deficiencies noted during the August 17, 2001, O&M Inspection, as well as the DO level detected on August 29, 2001. The Department advised the Respondent to remove the duckweed from the polishing pond as a measure of odor control. The Respondent was requested to begin removing the duckweed immediately upon receipt of the letter, and to submit to the Department a letter addressing the status of the duckweed removal within ten (10) days of receipt of the letter.
10. On January 10, 2002, Department personnel performed a Compliance Evaluation Inspection (CEI) at the Respondent's WWTF. The Respondent's operator of record was present during the CEI. The Respondent's WWTF received an unsatisfactory rating due to the following deficiencies: 1) A back-flow prevention device was not installed; 2) Analyses for DO and pH were only performed five (5) days per week instead of the required seven (7) days per week; 3) The pump station alarm system was not operational; and 4) The Respondent did not perform maintenance activities to the site, such as pumping out the effluent weir box and maintaining the access road.

11. On January 15, 2002, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF. Department personnel visited the WWTF on the same day and confirmed the presence of odors and complete cover of duckweed on the polishing pond.
12. On April 1, 2002, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
13. A review of discharge monitoring reports submitted by the Respondent for the March 1, 2000, through June 30, 2002, monitoring periods has revealed the following violations of the permitted discharge limits:

<u>NH<sub>3</sub>-N</u> -	March, April, May, June, July, September, October, November and December 2000, January, February, March, April, May, June, July, August, September, October, November and December 2001, January, February, March, April, May and June 2002;
<u>BOD</u> -	August, September, October and November 2000, August and September 2001, April and June 2002;
<u>DO</u> -	March 2001; and
<u>Flow</u> -	March and May 2000, and March 2001.
14. A regional sewer system owned by the City of Cayce is now available for connection.
15. The Respondent claimed a financial hardship and an inability to pay a civil penalty commensurate with the alleged violations and in the amount assessed by the Department. A request was made for relief. The Department accepted financial records, which are believed to accurately reflect the current financial position of the Respondent. Based upon a complete review of this information, the Department agrees to adjust the civil penalty amount as set forth below.

## CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (Supp. 2003), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a)(1) (Supp. 2003), in that it failed to comply with the permitted discharge limits for  $\text{NH}_3\text{-N}$ , BOD, DO, fecal coliform bacteria, and flow as specified in Part I.A.1 of the NPDES permit.
2. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2003), and Water Pollution Control Permits, 24 S.C. Code Ann. 61-9.122.41(a) (Supp. 2003), in that it failed to provide for daily visits by an operator of appropriate grade and failed to monitor pH and DO on a daily basis as required by the NPDES permit.
3. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2003), and Water Pollution Control Permits, 24 S.C. Code Ann. 61-9.122.41(e) (Supp. 2003), in that it failed to at all times properly operate and maintain the WWTF in accordance with the NPDES permit.
4. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.



**NOW, THEREFORE, IT IS ORDERED**, pursuant to Pollution Control Act, S.C. Code Ann. § 48-1-50 (1987) and § 48-1-100 (Supp. 2003), that the Respondent shall:

1. Henceforth, comply with all permitting and operating requirements in accordance with State and Federal regulations.
2. Within sixty (60) days of the execution date of this Order, submit to the PSC for approval a contract for sewer service with the regional sewer provider.
3. If the contract is approved by the PSC:
  - a) Within thirty days (30) after the PSC approves the contract, submit to the Department plans and specifications and an application for a permit to construct addressing elimination of the discharge by connection to regional sewer, including a closure plan.
  - b) Within ten (10) months of the execution date of this Order, begin construction on the connection to regional sewer.
  - c) Within fourteen (14) months of the execution date of this Order, complete construction of the connection to regional sewer and eliminate the discharge.
  - d) Within six (6) months of elimination of the discharge, close out the WWTF in accordance with Water Pollution Control Permits, 25 S.C. Code Ann. Regs. 61-9.503 (Supp. 2001), Proper Closeout of Wastewater Treatment Facilities, S.C. Code Ann. Regs. 61-82 (1976), and Standards for Wastewater Facility Construction S.C. Code Ann. Regs. 61-67 (as published in the State Register on May 24, 2002).
4. If the PSC denies the contract:
  - a) Within two (2) months of the PSC's denial of the contract, submit to the Department

plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.

- b) Within five (5) months of the PSC's denial of the contract begin construction of the permitted upgrade to the WWTF.
  - c) Within eleven (11) months of the PSC's denial of the contract, complete construction of the upgrade to the WWTF and request final operational approval from the Department.
5. If the regional sewer provider refuses to provide a contract to the Respondent within sixty (60) days from the date of this Order, the Respondent will upgrade the plant to meet permitted discharge limits in accordance with the following schedule:
- a) Within four (4) months of the date of this Order, submit to the Department plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.
  - b) Within seven (7) months of the date of this Order begin construction of the permitted upgrade to the WWTF.
  - c) Within thirteen (13) months of the date of this Order, complete construction of the upgrade to the WWTF and request final operational approval from the Department.

**IT IS FURTHER ORDERED AND AGREED** that the Department has assessed a civil penalty in the amount of thirty-one thousand twenty-four dollars (\$31,024.00). The Department suspends the entire penalty, provided, however, that this suspension shall be vacated and the full amount of thirty-one thousand twenty-four dollars (\$31,024.00) shall be due and payable upon notification by the Department should the Respondent fail to meet the requirements of the Order. The Department's

determination that the requirements have not been met shall be final. Further, a violation of the terms of this Order shall be deemed a violation of the South Carolina Pollution Control Act and shall be deemed unlawful, and may subject the Respondent to further enforcement action.

**THEREFORE IT IS FURTHER ORDERED** that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

Events which are not *force majeure* include by example, but are not limited to, unanticipated

or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Order and thereafter be referred to as an attachment to the Order.

**PURSUANT TO THIS ORDER**, all communication regarding this Order and its requirements shall be addressed as follows:

Anastasia Hunter-Shaw  
Water Enforcement Division  
Bureau of Water  
SCDHEC  
2600 Bull Street  
Columbia, S.C. 29201

**IT IS FURTHER ORDERED** that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of civil penalties.

**THE SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CONTROL**

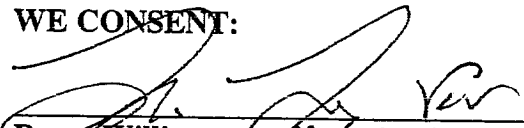
\_\_\_\_\_  
R. Lewis Shaw, P.E.  
Deputy Commissioner for EQC

DATE: \_\_\_\_\_

\_\_\_\_\_  
Alton C. Boozer, Chief  
Bureau of Water

DATE: \_\_\_\_\_

WE CONSENT:

  
Reece Williams, President of  
Piney Grove Utilities, Inc.,  
by express authority

DATE: 18 Feb 04

\_\_\_\_\_  
Attorney for the Department

DATE: \_\_\_\_\_

\_\_\_\_\_  
Valerie A. Betterton, Director  
Water Enforcement Division

DATE: \_\_\_\_\_

*PINEY GROVE UTILITIES, INC.*

April 16, 2004

John C. Sharpe, City Manager  
City of Cayce  
1800 Twelfth Street  
Post Office Box 2004  
Cayce, SC 29171-2004

Re: Lloydwood Subdivision Wastewater Request

Dear Mr. Sharpe:

Please accept this letter as a proposal from Piney Groves Utilities, Inc., to eliminate its Lloydwood facility sewer discharge to the City of Cayce sewer treatment facility. This proposal is virtually identical to that which the City of Cayce approved regarding the proposed elimination of the sewer discharge of the Bellemeade sewer treatment facility to the City of Cayce.

Piney Grove Utilities proposes the following as terms for a possible wastewater service and treatment agreement (contract) that the Cayce City Attorney would draft upon the approval of these preliminary proposed terms by both City of Cayce and the Public Service Commission:

1. The City of Cayce would sell and allocate 140,000 (266.67 REU-1 REU equals 300 GPD) of available wastewater capacity in the City of Cayce wastewater treatment plant to Piney Grove Utilities, Inc. at the current in-city capacity fee of \$930.00 per REU.
2. The City of Cayce would charge the out-of-city residential wastewater utility rate for wastewater treatment to Piney Grove Utilities, Inc., through a master meter owned, installed, and maintained by Piney Grove Utilities, Inc. The current out-of-city sewer rate for residential service is \$2.31 per 1,000 gallons metered plus a bi-monthly base charge determined by meter size. For example, the bi-monthly base charge is \$414.25 for a 4-inch meter and \$460.27 for a 6-inch meter.
3. Piney Grove Utilities, Inc., would be responsible for the construction of any and all infrastructure necessary to connect its Lloydwood facility with the City's treatment plant, including obtaining any necessary easements and the like.

**EXHIBIT "B"**

John C. Sharpe, City Manager  
Re: Lloydwood Subdivision  
April 16, 2004  
Page 2

Piney Grove Utilities, Inc.

  
D. Reece Williams, IV  
President

Approved:  
City of Cayce

